

Fact Sheet on SB 403*

EXHIBIT 7
DATE 3/13/09
SB 403

Senate Bill 403 will ...

- *Discourage economic development* across the state, especially in rural areas.
- *Take away a property right* from renewable energy producers without compensation.
- *Send energy developers to states* that actually encourage renewable development.
- *Decrease the amount of federal stimulus money* flowing to Montana earmarked for renewable energy development.

How the REC/RPS system works now...

Utilities must purchase Renewable Energy Certificates (RECs) or an equivalent amount of renewable power to fulfill their Renewable Portfolio Standard (RPS) requirements. 1 REC is proof that 1 megawatt-hour (MWH) of electricity was generated by a renewable resource. RECs are the property of the renewable generator which produces that power, are sold on an open market, and are distinct from the renewable power itself. The income provided by RECs can generate the incentive needed to finance and build renewable energy plants.

Every year, a utility must purchase a certain amount of energy, or an equivalent number of RECs, from renewable generators. It cannot apply an energy purchase to its RPS quota if the RECs associated with that energy are sold to a third party buyer, because that would double-count the value of the renewable energy on the market, devaluing and undercutting the entire REC system on a regional and national level.

What SB 403 changes...

SB 403 allows power purchased from QFs (small-scale renewable power generators known as "qualifying facilities") to count toward the utility's Renewable Portfolio Standard (RPS) requirement, *even if the Renewable Energy Certificates (RECs) associated with that power are sold to a third party.*

The current REC/RPS system is designed to avoid double-counting. *Senate Bill 403 destroys the value of the REC by allowing double-counting.* The sale of RECs is an important, and sometimes essential, part of financing a renewable energy project and incentivizing renewable plant development. No one will buy a REC on the open market where the energy represented by that REC has already been used to meet someone else's RPS requirement. Developers will not build in Montana when doing so would take away the value of their RECs.

As a legal matter, SB 403 undermines the intent of the RPS law, which is to encourage renewable energy development, specifically small-scale projects. It could be considered a taking of QFs' private property without compensation, because it would destroy the market value of the RECs owned by QF projects currently and prospectively selling power in Montana.

As a practical matter, passage of SB 403 will send federal stimulus grants, loan extensions, and tax incentives for renewable generation projects, and the thousands of jobs and rural economic development opportunities associated with dispersed, small-scale wind generation to other states. Montana is already becoming known as a state hostile to wind and hydro developers. SB 403 will only push us further back.

* Prepared by Suzanne Bessette, Attorney for Montana Small Independent Renewable Generators (MSIRG), March 7, 2009. For more information, contact (406) 443-2211, sbessette@doneylaw.com

	A	B	C	D	E	F	G	H	I	J	K	L
	Qualifying Facility	First Contract Year	First Contract Duration	Current Contract Year	Current Contract Duration	Basis For Payment	Contract kW	Average Paid \$/MWh (2008)	Average Paid Capacity (2008)	Capacity Rate Type	Location	Annual Cap. Factor (2008)
1	NorthWestern Energy											
2	Data Response to PSC-009a											
3	Docket D2008.12.146											
4												
5												
6	Agnew Ranch	10/1/2001	9 Month	11/1/2001	7 Year	QF-1 Fix	65	\$49.30	NA	NA	11 miles NE of Big Timber, MT	12.6%
7	Barney Creek	NA	NA	11/18/2004	35 Year	QFLT-84	60	\$61.31	\$93.17	\$/kW/Yr	S of Livingston, MT	25.3%
8	Billings Generation	NA	NA	3/1/1991	35 Year	Negotiation	52,000	\$59.32	\$5.54	\$/kW/Mth	Exxon refinery in Lockwood, MT	89.1%
9	Boulder Hydro**	9/13/1985	18 Year	7/1/2007	20 Year	QF-1 Mkt	510	\$47.06	NA	NA	1 mile E of Maxville, MT	0.3%
10	Broadwater	NA	NA	10/30/1987	35 Year	LTOF-86	10,000	\$52.48	\$15.11	\$/kW/Mth	S of Toston, MT	52.7%
11	Cascade Creek	NA	NA	10/1/1984	35 Year	QFLT-84	68	\$61.31	\$93.17	\$/kW/Yr	S of Livingston, MT	74.7%
12	Colstrip Energy Limited Ptn.*	NA	NA	10/15/1984	35 Year	Negotiation	35,000	\$57.93	\$91.17	\$/kW/Yr	6 miles N of Colstrip, MT	95.7%
13	Hanover Hydro	NA	NA	11/26/1984	26 Year	QFLT-84	240	\$53.26	\$86.24	\$/kW/Yr	Near Hanover, MT	8.5%
14	Martinsdale	5/1/2004	3 Year	4/23/2008	20 Year	QF-1 Mkt	750	\$39.09	NA	NA	3 miles N of Martinsdale, MT	21.9%
15	Martinsdale South***	10/1/2005	20 Year	4/23/2008	20 Year	QF-1 Mkt	2,000	\$38.83	NA	NA	3 miles N of Martinsdale, MT	5.7%
16	Mission Creek***	4/1/1998	10 Year	NA	NA	NA	65	NA	NA	NA	1 mile NW of Livingston, MT	30.5%
17	Moore-Wright	12/1/2005	20 Year	4/23/2008	20 Year	QF-1 Mkt	450	\$39.83	NA	NA	5 miles W of Two Dot, MT	16.9%
18	Montana Marginal***	1/1/1998	10 Year	NA	NA	NA	195	NA	NA	NA	2 miles E of Livingston, MT	17.0%
19	Pine Creek	NA	NA	11/15/1984	35 Year	QFLT-84	300	\$56.44	\$91.54	\$/kW/Yr	9 miles S of Livingston, MT	43.3%
20	Pony Generating Sta.	NA	NA	7/1/1984	20 Year	QFLT-84	300	\$58.04	\$83.80	\$/kW/Yr	Near Pony, MT	24.3%
21	Ross Creek	NA	NA	7/24/1996	36 Year	LTOF-1	450	\$28.95	\$3.48	\$/kW	10 miles N of Bozeman, MT	58.0%
22	Shaw Valley	9/1/2003	4 Year	4/23/2008	20 Year	QF-1 Mkt	455	\$38.48	NA	NA	1 mile NW of Two Dot, MT	26.2%
23	South Dry Creek	NA	NA	10/11/1984	35 Year	Negotiation	1,200	\$59.84	NA	NA	4 miles NE of Red Lodge, MT	72.3%
24	Strawberry Creek	NA	NA	11/15/1984	35 Year	Negotiation	190	\$60.31	NA	NA	15 miles S of Livingston, MT	77.6%
25	United Materials	5/31/2006	3 Month	6/1/2008	1 Year	QF-1 Mkt	9,000	\$43.57	NA	NA	Near Great Falls, MT	21.7%
26	Wisconsin Creek Ltd. Ptn.***	11/16/1984	30 Year	7/1/2007	7 Year	QF-1 Fix	400	\$49.90	NA	NA	3 miles NE of Sheridan, MT	27.7%
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Note:

NA is not applicable.

Mission Creek, MT Marginal, United Materials are under negotiation without a contract.

*CELP subject to court order it does not reflect past three years of escalation.

**Boulder had an extended outage during 2008.

***Contracts under negotiation are Mission Creek, MT Marginal, and United Materials.

Montana Code Annotated - 2007

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69-3-2007. Cost caps. (1) A public utility that has restructured pursuant to Title 69, chapter 8, is not obligated to take electricity from an eligible renewable resource unless the eligible renewable resource has demonstrated through a competitive bidding process that the total cost of electricity from that eligible resource, including the associated cost of ancillary services necessary to manage the transmission grid and firm the resource, is less than or equal to bids for the equivalent quantity of power over the equivalent contract term from other electricity suppliers.

(2) A public utility that has not restructured pursuant to Title 69, chapter 8, is not obligated to take electricity from an eligible renewable resource unless the cost per kilowatt hour of the generation from the renewable resource does not exceed by more than 15% the cost of power from any other alternate generating resource available to the public utility.

(3) A competitive electricity supplier is not obligated to take electricity from an eligible renewable resource unless the total cost of the electricity from that eligible renewable resource, including ancillary services, is less than or equal to a cost cap determined by the commission based on:

- (a) the cost of alternate power supplies available to the competitive electricity supplier; and
- (b) the cost caps applicable to other utilities under this section.

History: En. Sec. 7, Ch. 457, L. 2005; Sec. , MCA 2005; reds. by Sec. 1, Ch. 220, L. 2007; amd. Sec. 4, Ch. 246, L. 2007.

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